

### Mistakes Made: Will the Council of the Federation Be Effective?

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# **Mistakes Made**

## **Will the Council of the Federation Be Effective? \***

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Constitutional issues have always been an integral and controversial part of Canadian politics and federalism since Confederation in 1867. It became even more so after the Second World War as the jurisdictional line became blurred when different levels of government began to introduce programs together. However in this present day with the written Constitution of 1982 patriated without the consent of Quebec, there is an even greater controversy over jurisdictional powers. Particularly with the growing complexity involved with the development of programs and services and the inability for the provincial governments to effectively influence nation-wide policy due to the political nature of the Canadian Senate. The needs of each province/region differs from one another but because of the provinces'/territories' disagreements on how things should be done, the federal government has frequently taken unilateral action by imposing what it believes is good for Canada and Canadians overall rather than taking in enough consideration for the diversity of this country.

Behind the disagreements and conflicts between governments, however, is the realm of intergovernmental relations where agencies assist in the negotiations of joint federal-

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\* I would like to thank everyone who participated in my interviews or questionnaires including the government officials across Canada and the person from the Globe and Mail newspaper, who were all kind enough to take a moment of their time to share their knowledge and expertise on the currently developing Council of the Federation. I have learnt a great deal from speaking to each individual and for that I am grateful. I would also like to acknowledge the time and energy that Ted Glenn put into assisting me in developing my research focus, reviewing my paper and sharing the enthusiasm for this exploratory essay as an instructor and program co-ordinator for Humber's Public Administration Postgraduate Certificate Program. I am additionally appreciative to my friends who reviewed and edited this essay, particularly Kenri LaMont for enduring my conclusion writing session for two hours, and James Nowlan for pointing out some glaring errors during a quick edit. As a final note, my hope for this essay is to increase interest in the realm of intergovernmental relations.

provincial/territorial policy developments and service delivery. There was a need for an effective intergovernmental agreement which would provide provincial/territorial governments with an effective method of collectively and collaboratively working together to form a consensus that would potentially balance the federal government's unilateral spending and legislative power. From that need arrived a proposal in July 2003 for a Council of the Federation whose members were exclusively of provincial and territorial governments. This paper focuses on different factors that could influence the prospects for a fully developed Council of the Federation, such as its implications on existing intergovernmental relations within Canadian provinces as well as potential threats to success learned through past intergovernmental agreements. Furthermore, this document will explore how and why these factors pertain to the relatively high prospects of achieving an effective Council of the Federation.

## **§ 1. Striving for Collaboration Within the Federation**

Since the Annual Premiers' Conference (APC) proposed the Council of the Federation in July 2003<sup>1</sup>, and met again to further determine the structure of the Council in late October 2003, there has been much discourse over and surrounding the relationships between levels of government in Canada and the necessity for governments to collaborate in order to effectively develop policies and deliver services and programs that Canadians want. The purpose of this section is to provide a contextual review of sources that cover issues surrounding the much anticipated Council of the Federation and the broader realm of intergovernmental relations within Canada. The sources mainly range from academic books to scholarly journals as well as some research material from nonprofit organizations. This contextual review will follow a particular order to provide a comprehension of the functions of intergovernmental relations in Canadian federalism and further an understanding of the role that the

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<sup>1</sup> Gregory P. Marchildon. Centre for Research and Information on Canada. (September 4 2003) *A proposal for an effective Council of the Federation*. 9 September 2003. <[http://www.cric.ca/en\\_html/opinion/index.html](http://www.cric.ca/en_html/opinion/index.html)>

Council of the Federation will or will not potentially play in the realm of intergovernmental affairs in Canada.

- Historical Proposals of a “Council of the Federation”
- Social Union Framework Agreement (SUFA) as an intergovernmental agreement
- Political Conditions
- Current conjecture on recently proposed Council

Following this particular order will form the foundation for further research on whether or not the proposed Council of the Federation will be effective at facilitating co-operation between levels of government to develop nation-wide policies.

### **§ 1.1 Historical Proposals of a “Council of the Federation”**

The most recent Council of the Federation was enthusiastically announced in July 2003 by the Annual Premiers’ Conference, yet interestingly enough, it was the first time the proposed “Council of the Federation” has been taken seriously to some degree. There are many other “Councils of the Federation” that have been proposed in the past in order to confront the troublesome issues that were associated with Canadian federalism, each with a similar objective but different structure and foundation. The primary differences between each proposal are how a “Council of the Federation” is to operate. Some proposals involve constitutional reform which would have seen the entrenchment of the Council into the Constitution, possibly taking the place of what has been considered an ineffective Canadian Senate or simply become another legislative body; others have suggested it should be an intergovernmental body located in the executive branch of government.<sup>2</sup>

Regardless of these differences, the main concern that pressed forward a “Council of the Federation” was the need for provincial interests to be effectively represented within Canadian

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<sup>2</sup> Ibid, 7

federation. The proposals of these Councils (or intergovernmental bodies) have alternated between vote and consensus based decision making without any major outcome. After the attempts at constitutional reform in 1982, 1987 and 1992, there seemed to be a general realization that non-constitutional renewal of Canadian federalism would be the only route left for any real, concrete end results to be made.<sup>3</sup> Thus the realm of intergovernmental relations has expanded, but now with some additional structure through the formalization of how the provinces and territorial governments will interact with one another. The proposed “Council of the Federation” just recently in July 2003 has stirred a fair amount of discourse over whether it will make an impact on the Canadian federation or not.

### **§ 1.2 Social Union Framework Agreement (SUFA)**

The proposed Council of the Federation is an intergovernmental agreement that is being developed currently by provincial and territorial governments. To grasp what is at stake for all participants, it would be fruitful to look at the Social Union Framework Agreement (SUFA).

The Social Union Framework Agreement was signed in 1999 by all the first ministers except the premier of Quebec. Regardless of the fact that this intergovernmental agreement lacked one signature, the principle behind the agreement was to create a set of guidelines for which levels of governments would have to follow prior to making a final decision, or a “process of governing – how governments should relate to one another and to citizens in the making of social policy”.<sup>4</sup> Technically, the agreement was an initiative by the provincial governments to restrain the federal

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<sup>3</sup> Ibid, 12

<sup>4</sup> Harvey Lazar. “Managing Interdependencies in the Canadian Federation: Lessons from the Social Union Framework Agreement.” Constructive and Co-operative Federalism? IIGR, Queen’s University (2003). 25 October 2003. <[http://www.iigr.ca/pdf/publications/308\\_Managing\\_Interdependenci.pdf](http://www.iigr.ca/pdf/publications/308_Managing_Interdependenci.pdf)>, 2

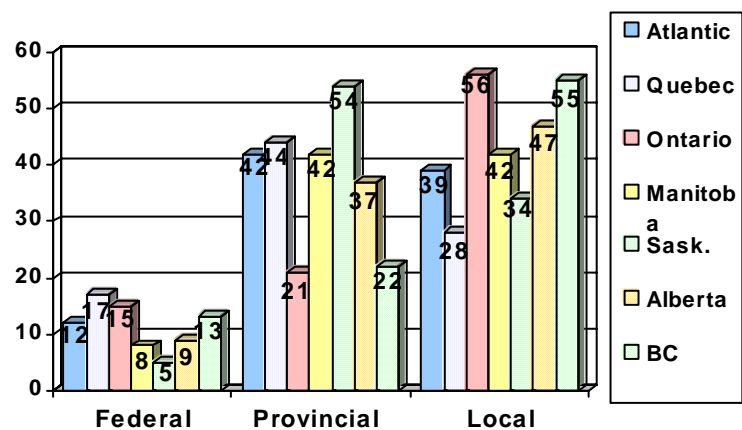
government from wielding power over provinces through unilateral spending or legislation.<sup>5</sup>

However the federal government does not always receive the complete share of blame due to the failure of the provinces to hold a united front and end up breaking under “financial self-interest”.<sup>6</sup>

Nevertheless, the Social Union Framework Agreement provides some groundwork for which the Council of the Federation, whose explicitly equal members are only provincial and territorial governments, to create a truly effective and united front against the federal government. If the provincial and territorial governments are able to come to a real consensus or agreement on a particular matter, the result would also be beneficial to the federal government at the negotiating table since there would be less of a need for the federal government to weigh and balance the interests of each region and instead focus on nation-wide matters.<sup>7</sup>

As an intergovernmental agreement, SUFA attempts to stress the importance of collaboration and places the emphasis on the interdependencies of the federal and provincial governments. Although similar in some respect, the Council of the Federation as an intergovernmental agreement

**Figure 1 – Which Level of Government Needs More Power Today?**



**Source: CRIC/ Publius / U. Texas at Arlington, March-April 2003**

<sup>5</sup> John Richards. C.D. Howe Institute. (2002, March). *The Paradox of the Social Union Framework Agreement*. 15 September 2003. <[http://www.cdhowe.org/pdf/backgroundunder\\_59.pdf](http://www.cdhowe.org/pdf/backgroundunder_59.pdf)>, 6

<sup>6</sup> Roger Gibbins. *Shifting Sands: Exploring the Political Foundations of SUFA*. Institute for Research on Public Policy – Policy Matters. Volume 2 no. 3 (July 2001), 7

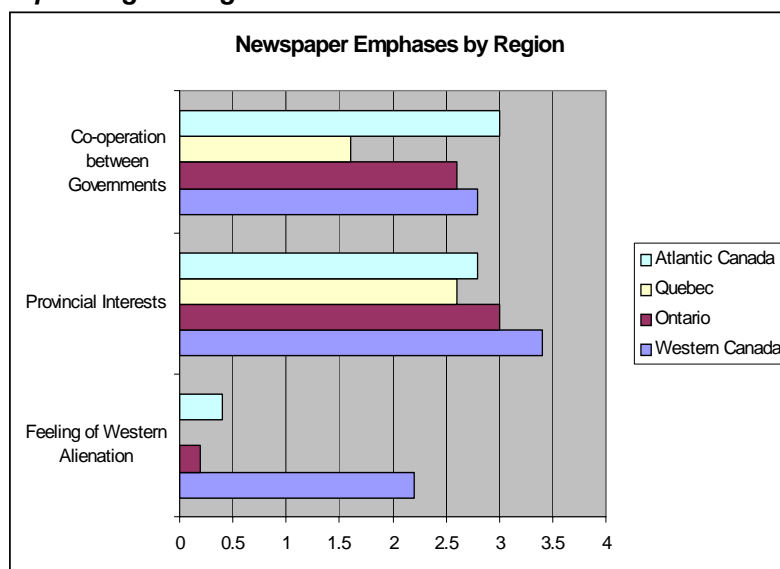
<sup>7</sup> J. Peter Meekison. “Council of the Federation: An Idea Whose Time has Come.” *Constructive and Co-operative Federalism?* IIGR, Queen’s University (2003). 25 October 2003. <[http://www.iigr.ca/pdf/publications/311\\_Council\\_of\\_the\\_Federatio.pdf](http://www.iigr.ca/pdf/publications/311_Council_of_the_Federatio.pdf)>, 3

is much more ambitious even without the federal government's involvement. However the Council this time around has the full support of Quebec and in fact is leading the initiative. In the end, both intergovernmental agreements strive to develop and implement efficient and high quality services to suit the needs of Canadians in each province.

### § 1.3 Political Conditions

One of the most important underlying forces indirectly pushing towards co-operation amongst levels of governments would be public opinion. A poll performed in November 2000 by the Centre for Research and Information on Canada (CRIC) stated that 73 percent of Canadians outside of Quebec and 63 percent within Quebec support increasing co-operation between federal and provincial governments.<sup>8</sup> Another survey taken in April 2003 by the CRIC revealed a large percentage of Canadians believe that

**Figure 2 – A Comparison of Average Newspaper Emphases depending on Region**



**Source: Appendix III - Chart A**

provincial and local governments needed more power (Figure 1).<sup>9</sup> A content analysis of twenty newspaper articles across Canada (equal representation of regions except the territories) pertaining to the Council of the Federation also expressed a tremendous emphasis on co-operation between governments (Figure 2). Thus public opinion and demand has risen to a point where politicians must

<sup>8</sup> Centre for Research and Information on Canada. (2000, November 30). Tracking an evolving federation. September 14 2003. <[http://www.cric.ca/en\\_html/opinion/opv2n43.htm](http://www.cric.ca/en_html/opinion/opv2n43.htm)>

<sup>9</sup> Centre for Research and Information on Canada. (2003, August 13). Canadians Favour Increased Power For Local Governments. 15 September 2003. <[http://www.cric.ca/pdf\\_re/comparative\\_fed/comparative\\_fed\\_press\\_aug2003.pdf](http://www.cric.ca/pdf_re/comparative_fed/comparative_fed_press_aug2003.pdf)>

direct their attention to a more co-operative and collaborative effort in the development of policies, services and programs or else be voted out of office. A look at the recent and near future change of governments in provincial and federal levels will reveal the potential of the Council of the Federation to be an effective mechanism for the facilitation of co-operation between federal and provincial governments to formulate good nation-wide policies. One might simply point to the recently elected Quebec Liberal government led by Jean Charest as a vast change in the approach to the rest of Canada by the province of Quebec. Quebec was the leader in the proposal to create a “Council of the Federation” and for that matter, there appears to be an increasing amount of enthusiasm across the country for such an initiative, however many question and wonder its plausible impact on the state of Canada, if any at all.

## **§ 2. Conjecture on the recently proposed Council of the Federation**

There have been numerous arguments made for and against the proposed intergovernmental body referred to as the “Council of the Federation”. Speculation ranges from questioning general need for such a Council, to what would serve well as potential functions of the intergovernmental body. A constant reminder throughout the majority of sources has been for the Council of the Federation not to become a “launching pad for concerted action against the federal government.”<sup>10</sup> Rather many suggest and recommend that the Council of the Federation should be a mechanism that should encourage the “joint and coordinated” effort by different governments to tackle different issues such as health and environment in their own way and within their jurisdictional powers.<sup>11</sup> That being said, the Council of the Federation as proposed in July 2003 does not involve the federal government

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<sup>10</sup> Claude Ryan. “Quebec and Intergovernmental Discussion and Consultation.” Constructive and Co-operative Federalism? IIGR, Queen’s University (2003). 14 November 2003.

<[http://www.iigr.ca/pdf/publications/316\\_Quebec\\_and\\_Interprovinci.pdf](http://www.iigr.ca/pdf/publications/316_Quebec_and_Interprovinci.pdf)>, 6

<sup>11</sup> Andre Burelle. “The Council of the Federation: From a Defensive to a Partnership Approach.” Constructive and Co-operative Federalism? IIGR, Queen’s University (2003). 14 November 2003.

<[http://www.iigr.ca/pdf/publications/314\\_The\\_Council\\_of\\_the\\_Feder.pdf](http://www.iigr.ca/pdf/publications/314_The_Council_of_the_Feder.pdf)>, 4



and focuses more so on institutionalizing the Annual Premiers' Conferences. One source points out that the separation of an inter-provincial/territorial body away from the federal government allows for provincial and territorial governments to form an agenda, consensus and develop a stronger united front which would then allow the provincial/territorial governments to proceed to First Ministers' Meetings with a coherent strategy and message.<sup>12</sup> There is slightly confusing and perhaps even conflicting speculation with some sources indicating that the Council of the Federation may not serve as an intergovernmental body which would "serve as a vehicle for joint inter-provincial/territorial action."<sup>13</sup> At the same time, another source suggests that the Premiers' Council on Canadian Health Awareness and possibly the Council of Ministers of Education may become smaller divisions of the larger structure which would make up the Council of the Federation.<sup>14</sup>

Nonetheless there have been sources that illustrate the potential downfalls of not officially incorporating the federal government into the Council.<sup>15</sup> In addition, there may be a possibility that the federal government regards the proposed Council of the Federation as only an organization formed by the provinces and territories for the sake of only lobbying for "fiscal resources".<sup>16</sup> There are also critics who question the democratic basis in such an intergovernmental body and the fact that agreements signed by the governing parties during one period of time can be ignored by a change in government.<sup>17</sup> However critics of the potential flaws also point toward Quebec's involvement and leadership as a plausible "change in the wind" which provides some hope that the

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<sup>12</sup> Meekison, 13

<sup>13</sup> Lazar. "Managing Interdependencies in the Canadian Federation." 5

<sup>14</sup> Meekison, 3

<sup>15</sup> Gregory Marchildon. "The Health Council of Canada Proposal in light of the Council of the Federation." Constructive and Co-operative Federalism? IIGR, Queen's University (2003). 25 October 2003. <[http://www.iigr.ca/pdf/publications/312\\_The\\_Health\\_Council\\_of\\_Ca.pdf](http://www.iigr.ca/pdf/publications/312_The_Health_Council_of_Ca.pdf)>, 6

<sup>16</sup> Andre Burelle. "The Council of the Federation: From a Defensive to a Partnership Approach." Constructive and Co-operative Federalism? IIGR, Queen's University (2003). 14 November 2003. <[http://www.iigr.ca/pdf/publications/314\\_The\\_Council\\_of\\_the\\_Feder.pdf](http://www.iigr.ca/pdf/publications/314_The_Council_of_the_Feder.pdf)>, 6

<sup>17</sup> Brown, Douglas M. "Getting Things Done in the Federation: Do We Need New Rules for an Old Game?" Constructive and Co-operative Federalism? IIGR, Queen's University (2003). 25 October 2003. <[http://www.iigr.ca/pdf/publications/303\\_Getting\\_Things\\_Done\\_in\\_t.pdf](http://www.iigr.ca/pdf/publications/303_Getting_Things_Done_in_t.pdf)>, 5

provincial and territorial governments may work collaboratively together and with the federal government, which may lead to a Council that would include all levels of government.

Even with the understanding of the issues pertaining to intergovernmental relations and more specifically, the proposed “Council of the Federation”, most concerns surrounding this intergovernmental body are still based on speculation. While there are differing opinions and ideas on the Council of the Federation and whether it may survive or not, this is a generally exciting period of time in the realm of intergovernmental relations as a new inter-provincial/territorial agency is under development. Whether critic or supporter, a vast majority understands that a successful Council would be beneficial to the state of the Canadian federation. Perhaps through comprehending the nature of intergovernmental agencies and agreements and how the Council would fit into an area of the public service and the broader scope, it may be conceivable to determine if this intergovernmental body would be effective.

Building upon the idea of analyzing the nature of current intergovernmental agencies into a larger picture involving the Council of the Federation, a number of the interviews and questionnaires were completed for this paper in order to provide a better understanding of potential outcomes. All responses obtained from the interviewees were evaluated to identify the important issues surrounding the development and future of the Council of the Federation (see Appendix III – Interview List). The idea behind this segment of the paper is to provide an examination of the major themes behind the responses given by the interviewees. By understanding these findings and major themes, it is possible to determine their influence over the potential effectiveness of the Council of the Federation to facilitate co-operation between governments. This analysis will follow upon a particular order to understand the Council’s impact on current mechanisms within the realm of intergovernmental relations while looking toward the major threats and obstacles that this

intergovernmental body will encounter as well as reveal the forces behind its foundation and development.

- Implications for Intergovernmental Agencies
- Obstacles of SUFA as a forewarning
- Political Indications
- The Lack of an Alternative

An assessment of these influences over the Council of the Federation will allow a determination of whether the Council of the Federation will be successful in facilitating an environment suitable for governments to come together and co-operatively or collaboratively develop good effective nation-wide policy.

## **§ 2.1 Implications for Intergovernmental Agencies**

[Intergovernmental relations] *have proven to be a fairly effective way of dealing with diversity.*  
– *Anonymous Government Official*

Intergovernmental agencies according to government officials country-wide are for the most part similar in the respect that they are not only all central agencies in the machinery of government, but are typically responsible for the co-ordination of their province's policies and ensuring that their provincial government's interests are consistent throughout all of its related departments and agencies. These intergovernmental agencies are also responsible for assisting in the negotiation of intergovernmental agreements. So what affect will the Council of the Federation have on the realm of intergovernmental relations in Canada?

The announcement of the Council of the Federation included details such as an increased set number of meetings by the premiers, hold at least one First Ministers' Conference annually and a potential Secretariat for Information and Cooperation on Fiscal Imbalance which would serve under the Council. In addition, whether or not the Canadian Intergovernmental Conference Secretariat will

be used is still unsure but the general and overall perspective drawn from the responses recorded is that the Council's impact on intergovernmental agencies across Canada will range from little to medium. Each interviewee held a slightly distinct idea of how the Council may impact their province's intergovernmental agency or in some cases, no impact whatsoever. However, these "impacts" can be applied universally across the realm of intergovernmental agencies.

Some notable **potential** impacts were:

- Work of the intergovernmental agency would be **enhanced**.
- Council would become **extension** of intergovernmental agency.
- Increased amount of **preparation** and **details** due to more meetings and/or conferences.
- Council meetings would require intergovernmental agencies to ensure **continuity**
- Intergovernmental agencies will **share** information
- Heavier **logistics** pertaining to conference preparation
- **Fiscal** issues which may involve travel
- Intergovernmental relations will develop into regular procedure and be **formalized**

Each of these plausible implications may ironically aid in the effectiveness of the 2003 Council of the Federation. Rather than only examining the broad and "larger picture" view of the how the Council would fit into Canadian federalism, a glance at the smaller details and operations of intergovernmental affairs reveals that these tiny steps that would be made by agencies and caused by the introduction of the Council of the Federation, holds the potential for its success. Then again, complete victory has not been achieved since there are other significant factors which would influence the effectiveness of such an intergovernmental agreement. As an example, looking at what was at stake in the Social Union Framework Agreement (SUFA) would serve to reveal the objectives of the Council as well as the number of impediments and difficulties involved.

## **§ 2.2 Obstacles of SUFA as a Forewarning**

SUFA was an intergovernmental agreement that originally was an indirect attempt by provincial governments to curb the federal government's unilateral spending and legislative powers. However the general perspective among interviewees of SUFA as an intergovernmental agreement is that it had a minimal effect on the overall realm of intergovernmental affairs, particularly in federal-provincial relations due to its inability to effectively encourage the federal government to consult with provinces before pushing forward a shared-cost program. Yet there were some mixed opinions on the results of SUFA with some government officials pointing out the lack of both involvement by Quebec and commitment by the federal government. On the other hand, many government officials indicated an important accomplishment under the influence of SUFA, such as the federal government's Early Childhood Development program which permitted some form of flexibility for the provinces on how they feel the federal funding should be invested. Nevertheless government officials and the interviewee of the Globe and Mail identified the Social Union Framework Agreement as merely a small step in comparison to the proposed Council of the Federation.

What may be learned from the responses pertaining to the SUFA agreement is that the Council of the Federation will likely encounter similar obstacles. The interviewee of the Globe and Mail emphasized a similar concern as the former government official of Saskatchewan in that it is difficult to see how the federal government can be "compelled to play along". In addition to these potential complications for the new intergovernmental body, the fact that the Council of the Federation is only an intergovernmental agreement which is non-binding and is dependant on consensual acts poses more of a threat to its existence. A common acknowledgement by all interviewees was that the Council definitely cannot be a forum for complaints or whining and rather must pro-actively engage the federal government in a co-operative and collaborative attitude. While

it may appear that the Council of the Federation is under constant threat, most government officials disagree. How so?

### **§ 2.3 Political Indications**

A few government officials have pointed to the change of governments in Ontario and Quebec as additional indicators of what Canadians want, which would be less government “head-bashing” and arguments over the clear lines of jurisdiction. The coming change in leaders and cabinet within the federal government has also brought a new hope to the provincial governments. Government officials have put forward that Mr. Paul Martin will return Canadian federalism to a more co-operative state once he becomes Prime Minister. In addition, an example given by one of the government officials highlighted the difference in approaches to the federal government by the Mike Harris Progressive Conservative government in Ontario as opposed to the recently elected Liberal government led by Dalton McGuinty. Therefore the current developmental state of the Council of the Federation is progressing rapidly with a lot of “momentum” as a couple of government officials have suggested. That being said, they recognize the potential threat of a provincial government pulling out of the Council of the Federation just as it is possible with any other intergovernmental agreement.

Yet the overall feeling is generally positive toward the Council of the Federation and that it would be “highly unlikely” for a province to pull out. The primary reason a provincial government may withdraw from the Council of the Federation would be if it were not serving its best interests. However, the basis of parliamentary sovereignty ensures that an inter-provincial/territorial body would not reign over the individual interests of each province, hence the priority of the Council to form a consensus on different matters. As some government officials have stated, then, the effort to determine the goal of the Council is easy; the major disagreements are how to achieve that goal.

## **§ 2.4 The Lack of an Alternative**

The last factor that may ultimately influence the effectiveness of the proposed Council of the Federation is the simple lack of alternatives to Constitutional change or renewal which Canadians and their governments unquestionably do not want to deal with. Interviewees from the government and Globe and Mail by and large agree that Canadians do not want to re-open the Constitution issue and rather emphasized that intergovernmental agreements such as the Council of the Federation have become a realistic, flexible and effective method of “dealing with diversity”. With little or no options left for the Canadian federation, the wise choice would be simply for political executives to “make it work” collectively rather than relying and waiting for the construction of a set of rigid rules to enforce co-operation and collaboration.

## **§ 2.5 Analysis Conclusion**

Upon the analysis of the findings, the potential impacts caused by the Council of the Federation on intergovernmental agencies across Canada and the context in which the Council is located, one can begin to understand why the Council of the Federation will be a success in facilitating co-operation between governments – either in case of the provinces and territories themselves or with the federal government. Although the Council is under development, there is a great threat to its effectiveness just as there is immense potential and it lies in the hands of the political executives in both levels of government to realize its necessity. Regardless of how sophisticated the machinery of government may be, the motivation ultimately lies in the people who drive them.

## **Final Conclusion**

The historical role of intergovernmental relations has been essential to the inner workings of the Canadian federation. The idea behind intergovernmental agencies originated from the need for

federal-provincial co-ordination, particularly after the Second World War when it began necessary for the federal and provincial governments to work together in order to deliver services and programs to the Canadian people. Today, the expanding forces of globalization on Canadian nation-wide policies and their frequent lack of relevance to provincial and territorial interests has increased the need for governments to co-ordinate effectively. Intergovernmental agreements such as SUFA represent past attempts at addressing such a need, however the nature of Canadian politics and traditional federal-provincial-territorial relations have typically hindered the agreement's potential. Particularly the federal government's frequent unilateral actions and the provinces' fixated fiscal interest. This was the key dilemma that SUFA faced and will be a key concern for the Council of the Federation; on the other hand the current political situation serves as an indication that this intergovernmental body holds a large amount of potential. As details of this upcoming intergovernmental agency are yet to be determined, this paper is merely exploring what will affect the effectiveness of the Council when its constitution and mandate are complete. Examining present political conditions and the implications the Council may have on intergovernmental agencies across the country provides a vivid projection. This projection demonstrates the potential for effective federal-provincial-territorial co-ordination, co-operation and collaboration.

Despite the consequences and/or outcomes of this Council of the Federation, the reality is that Canadian federalism is under stress and without constitutional alternatives. The Council is the best route for Canada and its people. To end this research on an intriguing note: in response to a question concerning the potential flaws in the current proposal for the Council of the Federation, one government official made the following statement: "Will we make mistakes? – Yes, if you don't make mistakes you can't make anything else."



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## **APPENDICES**

### ***Appendix I - Methodology***

#### **Research Focus**

The initial research question began as:

*“How would the proposed Council of the Federation be an effective mechanism in facilitating co-operation between provincial and federal governments in formulating nation wide policies?”*

But due to lack of available detailed information, it simply became:

*“Would the proposed Council of the Federation be an effective mechanism in facilitating co-operation between provincial and federal governments in formulating nation wide policies?”*

#### **Research Tactics and Obstacles**

To begin with in September, there were little or no sources on the Council of the Federation, thus I realized the primary source of information would be from any government official I would be able to interview. To tackle such an obstacle and issue as intergovernmental relations between federal and provincial governments, my original objective was to interview at least one government official from each province as well as the federal government concerning the Council of the Federation. An obstacle that I encountered was the number of unavailable and/or lack of genuine responses or the simple busyness of the interviewee. Thus to counter this potential overall research problem, I decided to strive for at least some sort of regional representation (See Appendix IV – Interviewee List). To provide an additional point of view, I was able to get in touch with a person from the Globe and Mail. To encourage people to feel that they could speak freely, all interviewees were given the choice of anonymity and confidentiality.

## **Research Realities**

The research focus was being fulfilled gradually as I was successful in getting in touch with a sufficient number of public servants who also provided to some extent, a regional representation for my research. In addition, the person from the Globe and Mail provided an opinion outside of the public service to compare with. Unfortunately, the federal government did not respond to my requests, thus I am only led to the conclusion that they are not currently interested in the Council of the Federation.

Three sets of questions were developed. One prior to the first meeting of the Council of the Federation on October 24<sup>th</sup> 2003, and a second set of questions after (Appendix III-A). The second set of questions was developed as a tactic to take into account new articles published by the Institute of Intergovernmental Relations at Queen's University around the week of October 24<sup>th</sup> 2003 concerning the Council (Appendix III-B). The second set of questions was also an attempt to counter the obstacle I came across which was the discovery that my questions were too specific and too focused on speculation. This led to an inability for some interviewees to answer some questions or a refusal to speculate. Opportunely, majority of the interviews occurred after October 24<sup>th</sup> 2003 and I therefore altered the set of questions to take upon a broader focus. These questions served as a guideline for interviews while impromptu questions were asked depending on the responses. The reasoning behind the development of a third set of questions was for the purpose of obtaining some additional insight from the person of the Globe and Mail by having the interviewee fill out a questionnaire (Appendix III-C).

Questions that were put forth for interviewing public servants had the purpose of attempting to focus on issues such as how intergovernmental relations functioned, determining any potential changes caused by the introduction of a Council of the Federation, the intricacies of

intergovernmental agreements and factors involved that may or may not support the agreement. By looking into these concerns, one may find potentially less apparent influences on the effectiveness of the Council of the Federation.

## ***Appendix II – Research Proposal***

Ehren Cheung  
September 17, 2003

### **Annotated Bibliography**

♦ Canadian Intergovernmental Conference Secretariat. (2003, July 9-11). *News Release: Premiers Announce Plan to Build a New Era of Constructive and Cooperative Federalism*. Retrieved September 10 2003 from, [http://www.scics.gc.ca/cinfo03/850092006\\_e.html](http://www.scics.gc.ca/cinfo03/850092006_e.html)

The press release with the tentative plan laid out by the thirteen premiers and a few details on the Council of the Federation and how it may work.

♦ Campbell, Murray. (2003, July 12). Premiers council gets a boost, but will it fly. *The Globe and Mail*. pp. A8

Globe and Mail columnist Murray Campbell reviews the hardships that the premiers and their proposed Council of the Federation will face in the near future.

♦ CBC News. (2003, July 11). *Provinces plan 'historic' change to federation*. Retrieved September 13 2003 from, [http://www.cbc.ca/storyview/CBC2003/07/10/premiers\\_030710](http://www.cbc.ca/storyview/CBC2003/07/10/premiers_030710)

A Canadian Broadcasting Corporation news report on premiers' announcements to take part in the Council of the Federation providing a slight look at the premiers' intentions and objectives.

♦ Centre for Research and Information on Canada. (2000, November 30). *Tracking an evolving federation*. Retrieved September 14 2003, from, [http://www.cric.ca/en\\_html/opinion/opv2n43.htm](http://www.cric.ca/en_html/opinion/opv2n43.htm)

Provides a brief recent historical and statistical look at how Canadians view the current system and what they view needs to change.

♦ Centre for Research and Information on Canada. (2003, August 13). *Canadians Favour Increased Power For Local Governments*. Retrieved September 15 2003, from [http://www.cric.ca/pdf\\_re/comparative\\_fed/comparative\\_fed\\_press\\_aug2003.pdf](http://www.cric.ca/pdf_re/comparative_fed/comparative_fed_press_aug2003.pdf)

A CRIC document that claims more and more Canadians are moving in a direction and gradually demanding a more decentralized system of government in order to satisfy local needs.

♦ Centre for Research and Information on Canada. (2003, August 13). *Comparative Federalism Survey*. Retrieved September 15 2003, from [http://www.cric.ca/pwp\\_re/comparative\\_fed/comparative\\_fed\\_survey\\_rev\\_aug2003.ppt](http://www.cric.ca/pwp_re/comparative_fed/comparative_fed_survey_rev_aug2003.ppt)

A recent survey taken by the CRIC on how Canadians feel about the current federalist system of government.

- ◆ Ibbitson, John. (2003, July 12). It's not easy being a provincialist. *The Globe and Mail*. pp. A19  
This article is written by a Globe and Mail columnist concerning the different views on how to make Canada work as a country and presents his view as a person that puts "provincial interests" first.
  
- ◆ Johnson, William. (2003, July 16). We're forgetting someone. *The Globe and Mail*. pp. A15  
Globe and Mail columnist William Johnson provides some speculation over the present plan proposed by the premiers as well as bring in some historical context to analyze the difficulties that the provincial leaders of past and present have encountered and what they are up against.
  
- ◆ Marchildon, Gregory P. (2003, September 4). *A proposal for an effective Council of the Federation*. Retrieved September 9 2003, from [http://www.cric.ca/en\\_html/opinion/index.html](http://www.cric.ca/en_html/opinion/index.html)  
While there are many optimistic outlooks for the proposed Council of the Federation, Marchildon wrote an opinion column for the CRIC pointing out the flaws of the proposed plan and their implications as well as what can be done to ensure Council effectiveness.
  
- ◆ Richards, John. C.D. Howe Institute. (2002, March). *The Paradox of the Social Union Framework Agreement*. Retrieved September 15 2003, from [http://www.cdhowe.org/pdf/backgrounder\\_59.pdf](http://www.cdhowe.org/pdf/backgrounder_59.pdf)  
A document by the C.D. Howe Institute looking into the SUFA agreement of 1999. It has the possibility of presenting additional insight into the implications of the proposed Council of the Federation.
  
- ◆ Roach, Robert. (2003, July 15). *A 'Council of the Federation' is only the beginning*. Retrieved September 11 2003, from <http://www.cwf.ca/abcalcwf/doc.nsf/doc/F812525AC5DE0CAA87256D6C0062BC52?Open>  
Roach represents a view from Western Canada and the article emphasizes the need for change in addition to the proposed Council of the Federation in order so that the different levels of government in Canada may be better prepared and effectively respond to the needs of Canadians.

## Research Question

*Due to the nature of the topic/focus, the following question is tentative until further information can be obtained.*

"How would the proposed Council of the Federation be an effective mechanism in facilitating co-operation between provincial and federal governments in formulating nation wide policies?"

## Research Strategy

Because the first meeting of the Council of the Federation will not take place until October 24 2003 in Quebec City, there will be a slight lapse and delay in time sensitive information. This is particularly true because the research being done is largely exploratory and perhaps slightly applied. However by contacting the appropriate people and obtaining their initial analysis of the proposal

(and perhaps even the result of the first meeting), it is possible to apply the different conclusions into a fair study on the effectiveness of the proposed Council of the Federation. Combined with a variety of divergent points of views from the media and policy analysts, it may also be plausible to note any flaws and point out the solutions.

### **Research Tools and Preliminary Thoughts**

Tools definitely used would likely be any media report and any policy research that pertains to the Council of the Federation or policies that attempt a similar objective. The lack of solid in-depth research into the Council of the Federation would lead to the necessity of interviewing a number of public service employees involved in Intergovernmental Affairs. Also important is to ensure a balance of views among provincial public sectors as well as in the federal level. Other people to interview could be members of the press/media and policy analysts of different Canadian policy think-tanks. Interviews will either take place over the phone or by email, thus recording specifically what an interviewee states over the phone may be difficult.

To ensure accuracy and validity, the questions used in the interviews will be the same all across and answers will be compared for some sort of relativity and relevance to one another. The names of interviewees will be likely be kept confidential to allow the report to be presented with as close to an unbiased approach as possible. There is a high reliability in sources as they are representative across the country and are involved with different levels of government, or represent members of policy think-tanks and Canadian press.

## ***Appendix III – Question Lists***

### **Question List A**

Tell me about your job and role in intergovernmental affairs.

How does the Department/Ministry of Intergovernmental Affairs operate in your province?

How will the Council of the Federation affect the Ministry of Intergovernmental affairs? Will it become an arm of the ministry or vice versa?

What might be the implications of the proposed Council of the Federation on the public service in federal and provincial levels?

Would there be a possibility that municipal governments may take part in the Council in the future?

Would this Council actually promote true co-operation between governments or would it simply be a formal mechanism for provincial complaints? How so?

How might the Council ensure that the federal government abide by Council procedure by holding provincial consultations prior to federal appointments? Would this apply to other procedures as well?

Do you think the setup of the Council of the Federation will allow for and encourage negotiation of ‘hard tradeoffs and compromises in order to achieve substantive outcomes that still respect the Constitution and the accountability of each parliament and legislature to its respective population’?

From your current standpoint, do you see the possible need for a new staff of civil servants dedicated to the Council in order to assist with the pursuit of co-operative federalism?

Do you think this proposed Council will be a major improvement upon the ad hoc and informal process of the First Ministers’ Meetings?

Are there any possible flaws in the current proposal you see that may present major problems in the future for the Council? If so, what would you recommend to mend the possible future problem?

How do current intergovernmental relations operate in policy formulation and how might it differ with the proposed Council of the Federation?

Whether this proposed Council is successful in initial implementation or not, do you support the move toward a co-operative effort between governments through the means of a Council? Or do you see a viable alternative?

Due to the nature of this study, would you prefer to have your name kept confidential?



## **Question List B**

*Note:* All information and answers given will be kept anonymous and confidential.

How does the intergovernmental agency in your province currently operate?

Does it play a consultative role within the government?

How does the role of your intergovernmental agency fit into the policy formulation process?

How might it differ with the introduction of a Council of the Federation?

How might the Council affect your intergovernmental agency?

Because of the intricacies of intergovernmental affairs being a more consensual based procedure of attempting to formulate a policy, and through non-binding agreements, are there methods of ensuring provinces and the federal government follow upon the agreed terms? Are there new methods to ensure provinces follow upon agreements made through the Council? Is there a potential threat that a newly elected government would cause one of the provinces to withdraw from the council?

With everything intergovernmental related based mainly on being non-binding and consensual acts or agreements, how often has intergovernmental relations or affairs play a major role in nation wide policy formulation? Or inter-provincial?

Is there a contradiction when provinces push for senate reform? Particularly in the case of provinces such as Ontario and Quebec where there would be little or no interest due to the fact that the current situation is to their advantage?

How has SUFA affected Intergovernmental affairs in your province?

How difficult has it been for you personally to negotiate or form consensus with provinces? Any areas in particular that the Council of the Federation may alter?

## **Question List C**

How might the Council of the Federation affect the Ministry of Intergovernmental affairs? Could it become an arm of the ministry or vice versa? Would the Council possibly become a “middleman” for all pertaining intergovernmental affairs?

What might be the implications of the proposed Council of the Federation on the public service in federal and provincial levels?

Would there be a possibility that municipal governments may take part in the Council in the future? There are vast differences between the 2003 Council of the Federation proposal as opposed to the one proposed by the Quebec Liberal Party in 2001, what could be the major loopholes in the 2003

Council proposal?

The creation of a Council of the Federation in order to be effective would rely on all provincial governments to be truly united. If even one province were to be allowed to pull out then the Council would become ineffective, should/would there be formal regulations and methods of interaction amongst provinces and territories? This system may result in a smaller system that resembles that of the European Union. What is your opinion?

Would this Council actually promote true co-operation between governments or would it simply be a formal mechanism for provincial complaints? How so?

When the provinces and federal government came together to create the Social Union Framework Agreement (SUFA) in 1999, critics pointed out that Ottawa was able to simply avoid being restrained in new rules by offering provinces more money. How might the Council ensure that the federal government abide by Council procedure by holding provincial consultations prior to federal appointments? Would this apply to other procedures as well?

Do you think the current setup of the Council of the Federation will allow for and encourage negotiation of “hard tradeoffs and compromises in order to achieve substantive outcomes that still respect the Constitution and the accountability of each parliament and legislature to its respective population”?

From your current standpoint, do you see the possible need for a new staff of civil servants dedicated to the Council in order to assist with the pursuit of co-operative federalism?

Do you think this proposed Council will be a major improvement upon the ad hoc and informal process of the First Ministers’ Meetings?

Are there any possible flaws in the current proposal you see that may present major problems in the future for the Council? If so, what would you recommend to mend the possible future problem? How do current intergovernmental relations operate in policy formulation and how might it differ with the proposed Council of the Federation?

Whether this proposed Council is successful in initial implementation or not, do you support the move toward a co-operative collaborative effort between governments through the means of a Council? Or do you see a viable alternative?

Do you regard the major problem behind intergovernmental relations as ultimately pertaining to Canada’s 1982 Constitution and political culture (and political parties) which hinders actual corporatist approaches to policy making like those in the governments of Sweden and Germany? Also, do you see the election of a different political party into government as a potential threat to the Council as ideology or political stance may differ (i.e. parti quebecois)?

Although the Council of the Federation is united in pushing for senate reform, is it possible for all the provinces to actually support a truly equally represented senate (or Triple E Senate) particularly with Ontario and Quebec holding all the privileges in terms of seats within the senate? Can you

foresee any potential solution?

Due to the nature of this study, would you prefer to have your name kept confidential?

## ***Appendix IV***

**Chart A – Average Emphases by Region\***

<b>Region</b>	<b>Feeling of Western Alienation</b>	<b>Provincial Interests</b>	<b>Co-operation between Governments</b>
Western Canada	2.2	3.4	2.8
Ontario	0.2	3	2.6
Quebec	0	2.6	1.6
Atlantic Canada	0.4	2.8	3

\*This chart was originally part of a content analysis on regional emphases in the media within the context of the Council of the Federation. With the exception of the Northern Territories of Canada, the regions of Western Canada, Ontario, Quebec and Atlantic Canada were to be equally represented in this content analysis.

## **Interviewee List**

This research seeks out the underlying factors surrounding the proposed 2003 “Council of the Federation” and by understanding these factors, one can determine the effectiveness of the intergovernmental body that is currently under development. The findings are based upon responses by 9 interviewees who chose to have their identity and responses remain anonymous and/or confidential. The interviewees range from the following:

- One Government Official in British Columbia
- Two Government Officials in Ontario
- One Government Official in Newfoundland
- One Government Official in Northwest Territories
- One Government Official in Quebec
- One Government Official in Saskatchewan

- One Former Government Official in Saskatchewan
- One Person of the Globe and Mail

Due to the nature of the study, all interviewees have requested that their responses not be directly used and identities concealed. Also because of the speculative nature of the research, some officials were more or less reluctant to provide an elaborate response while others were rather enthusiastic. There is also a potential for error as always however it is quite minimal considering that most ideas in the findings are derived from personal responses in questionnaires, interviews in person and over the telephone. Therefore both interviewee and interviewer may miscommunicate or misinterpret a response. Personal responses may also include personal and organizational biases, which may include the reluctance to elaborate on speculation. However matters of which some interviewees did not speak of, others elaborated on. The result of which has nonetheless allowed an overall depiction of the general attitude toward the developing intergovernmental body referred to as the “Council of the Federation”.